

**AN ORDINANCE BY  
FINANCE AND EXECUTIVE COMMITTEE**

**AN ORDINANCE AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF ATLANTA ("CITY"), TO AUTHORIZE THE CURRENT LEASE UNTIL MARCH 31, 2007 AND ENTER INTO A LEASE EXTENSION AGREEMENT WITH BPS CORES, INC. ("TENANT"), LOCATED AT 504-510 ENGLEWOOD AVENUE SOUTH EAST AND 520 ENGLEWOOD AVENUE SOUTH EAST ATLANTA, GEORGIA, BEGINNING MARCH 31, 2007 THROUGH JUNE 30, 2007, IN AN AMOUNT NOT TO EXCEED NINETY THOUSAND DOLLARS (\$90,000.00) ANNUALLY, PRORATED AT SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500.00) MONTHLY. ALL REVENUE SHALL BE DEPOSITED INTO FUND, ACCOUNT, AND CENTER NUMBER: 1C53 (2005A PARK IMPROVEMENT BOND FUND) 462201 (BUILDING RENTALS) N12D11B69999 (LAND ACQUISITION); AND FOR OTHER PURPOSES.**

**WHEREAS**, On April 17, 2006, the City Council adopted ordinance 06-O-0706 and the Mayor approved the same on April 20, 2006, which authorized the City to purchase approximately 4.808 acres at 500, 504-510 and 520 Englewood Avenue S.E., Parcel Identification Numbers 14-0042-0009-026, 14-0042-0008-003, and 14-0042-0008-020, from the Trust for Public Land ("TPL"), in the Boulevard Crossing area which is located along the proposed Beltline; and

**WHEREAS**, Section 4 of ordinance 06-O-0706 authorized the City to enter into a lease with the Tenant located at 504-510 Englewood Avenue S.E. and 520 Englewood Avenue Atlanta, Georgia ("The Property") upon the City's acquisition of the property; and

**WHEREAS**, On May 11, 2006, the City purchased the Property from TPL, subject to an existing lease with the Tenant which expires on December 31, 2006; and

**WHEREAS**, on June 12, 2006, the City executed an assignment of lease agreement with TPL ("Lease"), wherein the City assumed the obligations as landlord under the lease (attached hereto as Exhibit "A"); and

**WHEREAS**, pursuant to the said assignment, the City granted the Tenant an extension to extend the Lease from December 31, 2006 through March 31, 2007, in an amount not to exceed ninety thousand dollars (\$90,000.00) annually, prorated at \$7,500.00 monthly; and

**WHEREAS**, the Tenant has requested the City to grant another extension to extend the Lease agreement from March 31, 2007 through June 30, 2007; and

**WHEREAS**, the Department of Parks, Recreation, and Cultural Affairs ("Department") has the option of extending the aforesaid Lease, at its sole discretion, through December 31, 2007; and

**WHEREAS**, the Department wishes to extend the Lease with the Tenant consistent with said terms.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS, as follows:**

**SECTION 1:** The Mayor be and is hereby authorized, on behalf of the City of Atlanta ("City"), to authorize the current Lease with BPS Cores, Inc. ("Tenant") to March 31, 2007, and to enter into a lease extension agreement with the Tenant, for the property located at 504-510 Englewood Avenue South East and 520 Englewood Avenue South East Atlanta, Georgia, beginning March 31, 2007, through June 30, 2007, in an amount not to exceed ninety thousand dollars (\$90,000.00) annually, prorated at \$7,500.00 monthly.

**SECTION 2:** The Department of Parks, Recreation, and Cultural Affairs ("Department") shall have the option of extending the aforesaid Lease, at its sole discretion, through December 31, 2007.

**SECTION 3:** Revenue received from the Lease Agreement will be deposited into Fund, Account, and Center Number: 1C53 (2005A Park Improvement Bond Fund) 462201 (Building Rentals) N12D11B69999 (Land Acquisition).

**SECTION 4:** The Mayor, on behalf of the City, is authorized to execute any and all deeds, instruments or other documents that the Law Department deems to be necessary or advisable in order to carry into effect the intent of this ordinance.

**SECTION 5:** The City Attorney is hereby directed to prepare for execution by the Mayor, any and all leases, deeds, instruments, or other documents that the City Attorney deems necessary or advisable to carry into effect the intent of this ordinance.

**SECTION 6:** Said deeds, instruments, or other documents shall not become binding upon the City, and the City shall incur neither obligation nor liability thereunder, until the same has been signed by the Mayor, attested to by the Municipal Clerk, approved as to form by the City Attorney.

**SECTION 7:** All ordinances and parts of ordinances in conflict herewith are hereby waived for purposes of this Ordinance only, and only to the extent of the conflict.

**Part II: Legislative White Paper:** (This portion of the Legislative Request Form will be shared with City Council members and staff)

**A. To be completed by Legislative Counsel:**

**Committee of Purview:** Finance and Executive

**Caption:** AN ORDINANCE AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF ATLANTA ("CITY"), TO AUTHORIZE THE CURRENT LEASE UNTIL MARCH 31, 2007 AND ENTER INTO A LEASE EXTENSION AGREEMENT WITH BPS CORES, INC. ("TENANT"), LOCATED AT 504-510 ENGLEWOOD AVENUE SOUTH EAST AND 520 ENGLEWOOD AVENUE SOUTH EAST ATLANTA, GEORGIA, BEGINNING MARCH 31, 2007 THROUGH JUNE 30, 2007, IN AN AMOUNT NOT TO EXCEED NINETY THOUSAND DOLLARS (\$90,000.00) ANNUALLY, PRORATED AT SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500.00) MONTHLY. ALL REVENUE SHALL BE DEPOSITED INTO FUND, ACCOUNT, AND CENTER NUMBER: 1C53 (2005A PARK IMPROVEMENT BOND FUND) 462201 (BUILDING RENTALS) N12D11B69999 (LAND ACQUISITION); AND FOR OTHER PURPOSES.

**Council Meeting Date:** 12/12 & 12/13

**Requesting Dept.:** Parks, Recreation, and Cultural Affairs

**B. To be completed by the department :**

**1. Please provide a summary of the purpose of this legislation (Justification Statement).**

Ordinance 06-O-0706 authorized the City to enter into a lease with the tenant at 504-510 Englewood Avenue SE, upon the City's acquisition of the property. The lease has been executed. The tenant is requesting an extension through June 30, 2007. This Ordinance will authorize the extension of the lease through June 30, 2007 with the option to extend through December 31, 2007, upon mutual agreement between the tenant and the Department of Parks, Recreation and Cultural Affairs.

**2. Please provide background information regarding this legislation.**

**3. If Applicable/Known:**

- (a) Contract Type (e.g. Professional Services, Construction Agreement, etc):
- (b) Source Selection:
- (c) Bids/Proposals Due:
- (d) Invitations Issued:
- (e) Number of Bids:
- (f) Proposals Received:
- (g) Bidders/Proponents:
- (h) Term of Contract:

**4. Fund Account Center:** Revenue received from the Lease Agreement will be deposited to 2005A Park Improvement Bond Fund Account and Center Numbers: 1C53 (2005A Park Improvement Bond Fund) 462201 (Building Rentals) N12D11B69999 (Land Acquisition).

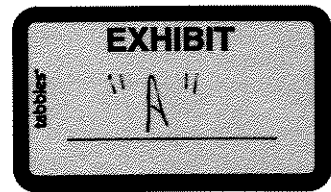
**5. Source of Funds:** *Example: Local Assistance Grant*

**6. Fiscal Impact:**

**7. Method of Cost Recovery:**

**This Legislative Request Form Was Prepared By:** Ellen Wickersham

## ASSIGNMENT OF LEASE AGREEMENT



**THIS ASSIGNMENT OF LEASE AGREEMENT** (the "Assignment") entered into as of the 12<sup>th</sup> day of June, 2006, by and between **THE TRUST FOR PUBLIC LAND**, a nonprofit California public benefit corporation d/b/a The Trust for Public Land (Inc.), (hereinafter referred to as "Assignor") and **CITY OF ATLANTA**, Georgia, whose address is 68 Mitchell St. S.W., Atlanta, Georgia 30303 (hereinafter referred to as "Assignee").

WHEREAS, on even date herewith, Assignor sold to Assignee, and Assignee purchased from Assignor, that certain tract or parcel of land comprising 4.08 acres, more or less, lying and being in Land Lot 42 of the 14th District, Fulton County, Georgia (the "Property");

WHEREAS, the Property was sold subject to an existing Lease Agreement, dated of even date herewith, by and between BPS Cores, a Georgia corporation, as Tenant, and Assignor herein as Landlord, a true and complete copy of which is attached hereto as Exhibit A and incorporated herein by reference (the "Lease");

WHEREAS, pursuant to Section 10 of the Lease, the Landlord may freely assign its interest therein to a public agency or governmental entity; and

WHEREAS, Assignor and Assignee, consistent with the terms of the Lease, desire to enter into this Assignment.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. Assignment. Assignor hereby assigns to Assignee, and Assignee hereby accepts from Assignor and agrees to assume, all of Assignor's right, title, interest and obligations as Landlord under the Lease. This consent shall not be construed to release Assignor from any potential claim or claims arising under the Lease whereby the basis of such claim occurred on or prior to the transfer and assignment of Lease between Assignor and Assignee. Assignee does hereby discharge and release Assignor from any liabilities or obligations, the basis of which arises after the date of the transfer.

2. Counterparts. This Assignment may be executed in two or more counterparts, each of which shall be deemed to be an original, and all of which counterparts together shall constitute but one and the same instrument. Legible fax copies and photocopies of documents signed by either party are deemed to be equivalent to originals.

3. Parties Bound. All of the terms, covenants and conditions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

IN WITNESS WHEREOF, each of the parties hereto has caused this Assignment to be executed under seal by its duly authorized signatory as of the date set forth above.

**ASSIGNOR:**

**THE TRUST FOR PUBLIC LAND,**

a nonprofit California public benefit corporation, d/b/a  
The Trust for Public Land (Inc.)

By: 

Name: James Langford

Title: Georgia State Director

[CORPORATE SEAL]

**ASSIGNEE:**

**CITY OF ATLANTA**

ATTEST: 

BY: 

Municipal Clerk  
**FORIS WEBB III**  
DEPUTY MUNICIPAL CLERK

BY: 

Mayor

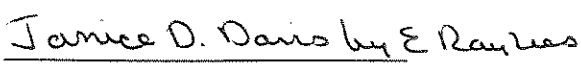
APPROVED: 

Commissioner, Department of  
Parks, Recreation and Cultural  
Affairs

RECOMMENDED:

  
Chief Operating Officer


APPROVED:

  
Janice D. Davis by E. Raulos  
Chief Financial Officer

APPROVED AS TO FORM:

  
Sangeetha Rao  
Assistant City Attorney

APPROVED:

  
Chief Procurement Officer

**Exhibit "A"**

**Lease Agreement**

LEASE AGREEMENT

**ARTICLE I**

**REFERENCE DATA**

**1.1 SUBJECTS REFERRED TO:**

Each reference in this Lease to any of the following subjects shall be construed to incorporate the data stated for that subject in this Section 1.1:

LANDLORD: The Trust for Public Land, a California public benefit corporation

LANDLORD'S ADDRESS: THE TRUST FOR PUBLIC LAND  
600 West Peachtree St NW  
Suite 1840  
Atlanta, GA 30308  
Attn: Counsel  
Phone (404) 873-7306 x-258  
FAX (404) 875-9099

TENANT: BPS Cores, Inc.  
a Georgia corporation

TENANT'S ADDRESS (FOR NOTICE AND BILLING):

Boles Parts Supply  
1122 Milledge Street  
East Point, GA 30344  
(404) 559-8571  
Contact: Debra Stanley

PROPERTY ADDRESSES: 504-510 Englewood Ave. SE, 520 Englewood Ave SE.  
Atlanta, GA

SCHEDULED TERM COMMENCEMENT DATE: As of April 1, 2006

TERM EXPIRATION DATE: March 31, 2007

TERM: Twelve (12) months.

ANNUAL RENT: \$90,000 (at the rate of \$7,500 per month)

SECURITY DEPOSIT: \$7,500



PERMITTED USES: vehicle parking, warehouse use and general office.

PUBLIC LIABILITY INSURANCE: BODILY INJURY: \$1,000,000; PROPERTY DAMAGE: \$1,000,000.

## **ARTICLE II**

### **PREMISES AND TERM**

#### **2.1 PREMISES.**

Subject to and with the benefit of the provisions of this Lease, Landlord hereby leases to Tenant, and Tenant leases from Landlord, the Property, commonly known as 504-510 Englewood Ave. SE and 520 Englewood Ave SE, Atlanta, GA and more particularly described on Exhibit A attached hereto and incorporated herein by reference, hereinafter referred to as the "Premises".

#### **2.2 TERM.**

To have and to hold for a period (the "Term") commencing on April 1, 2006 (the "Commencement Date"), and continuing until the Term Expiration Date, unless sooner terminated as provided in Section 7.1 or in Article IX. Tenant may terminate lease at any time prior to expiration of term by providing written notice to Landlord five (5) business days prior to termination.

## **ARTICLE III**

### **PREMISES ACCEPTABLE FOR OCCUPANCY**

**3.1 INSPECTION OF PREMISES.** Tenant acknowledges that it is the present occupant of the Premises and has full knowledge of the structures and property comprising the Premises. Tenant accepts the use and occupancy of the Premises "as is" and "where is" and without any representations as to fitness for use.

## **ARTICLE IV**

## RENT

### 4.1 RENT

Tenant agrees to pay rent to Landlord without any offset or reduction whatsoever, equal to 1/12th of the Annual Rent in equal installments in advance on the last day of each calendar month included in the Term; and for any portion of a calendar month at the beginning or end of the Term, at the proportionate rate payable for such portion, in advance.

### 4.2 OPERATING COSTS

Tenant will pay all of the operating costs for the Premises (the "Operating Costs")

**excluding** the principal, interest and amortization on mortgages granted by Landlord for the Premises, if any

**but including**, without limitation: real estate taxes on the Premises (buildings and land); assessments and interest on assessments for public betterments or public improvements; expenses of any proceedings for abatement of taxes and assessments with respect to any fiscal year or fraction of a fiscal year; premiums for insurance; fees payable to third parties engaged by Tenant or the Permitted Subtenant in the operating, maintaining, or cleaning of the Premises (buildings and land); all utility charges; payments to independent contractors under service contracts entered into by Tenant or the Permitted Subtenant for cleaning, operating, managing, maintaining and repairing the Premises.

The term "real estate taxes" as used above shall mean all taxes of every kind and nature assessed by any governmental authority on the land or buildings on the Premises which the Landlord shall become obligated to pay because of or in connection with the ownership, leasing and operation of the Premises, subject to the following: There shall be excluded from such taxes all income taxes, excess profits taxes, excise taxes, franchise taxes, and estate, succession, inheritance and transfer taxes, provided, however, that if at any time during the Term the present system of *ad valorem* taxation of real property shall be changed so that in lieu of the whole or any part of the *ad valorem* tax on real property, there shall be assessed on Landlord a capital levy or other tax on the gross rents received with respect to the Premises, or a federal, state, county, municipal, or other local income, franchise, excise or similar tax, assessment, levy or charge (distinct from any now in effect) measured by or based, in whole or in part, upon any such gross rents, then any and all of such taxes, assessments, levies or charges, to the extent so measured or based, shall be deemed to be included within the term "real estate taxes."

## **ARTICLE V**

### **LANDLORD'S COVENANTS**

#### **5.1 LANDLORD'S COVENANTS DURING THE TERM**

Landlord covenants that Landlord has the right to make this Lease and that Tenant, on paying the rent and performing its obligations hereunder, shall peacefully and quietly have, hold and enjoy the Premises throughout the Term without any manner of hindrance or molestation from Landlord or anyone claiming under Landlord, subject however to all the terms and provisions hereof.

#### **5.2 INTERRUPTIONS**

Landlord shall not be liable to Tenant for any compensation or reduction of rent by reason of inconvenience or annoyance or for loss of business arising from power losses or shortages or from the necessity of Landlord's entering the Premises for any of the purposes in this Lease authorized.

Landlord reserves the right to stop any service or utility system when necessary by reason of accident or emergency or until necessary repairs have been completed. Except in case of emergency repairs, Landlord will give Tenant reasonable advance notice of any contemplated stoppage and will use reasonable efforts to avoid unnecessary inconvenience to Tenant by reason thereof.

Landlord also reserves the right to institute such policies, programs and measures as may be necessary or required to comply with applicable codes, rules, regulations or standards.

## **ARTICLE VI**

### **TENANT'S COVENANTS**

#### **6.1 TENANT'S COVENANTS DURING THE TERM**

Tenant covenants during the Term and such further time as Tenant occupies any part of the Premises:

6.1.1 Tenant's Payments - To pay when due (a) all Annual Rent and additional rent, (b) all taxes which may be imposed on Tenant's personal property in the Premises (including, without limitation, Tenant's fixtures and equipment) regardless to whomever assessed, (c) all real property taxes on the Premises upon presentation of the tax bill by Landlord, including a prorated share of 2006 taxes for premises formerly occupied at 500 Englewood under previous lease; (d) all charges by public utilities for telephone

and other utility services (including service inspections therefor) rendered to the Premises, (e) all insurances required hereunder, and (f) all costs of maintenance and repair of the Premises.

6.1.2 Repairs and Yielding Up - To keep the Premises in good order, repair and condition, reasonable wear and tear only excepted; and at the expiration or termination of this Lease, peaceably to yield up the Premises and all changes and additions therein in such order, repair and condition, first removing all goods and effects of Tenant and any items, the removal of which is required by agreement or specified herein to be removed at Tenant's election and which Tenant elects to remove, and repairing all damage caused by such removal and restoring the Premises and leaving them clean and neat. In the event this Lease is terminated or expires and it is determined by a licensed professional engineer or geologist contracted by Landlord that during the period of Tenant's occupancy of the Premises, **after the commencement of this Lease term, new or additional** pollutants or hazardous materials have been discharged or released on the Premises in concentrations or amounts which exceed any applicable legal standard, then Tenant be responsible to have the Premises remediated to the standards set by the State regulatory agencies overseeing such contamination. **Tenant specifically agrees that Landlord may, during the 30 days prior to the expiration of the Term, or prior to the date Tenant vacates the Premises, contract with, at Tenant's expense, a licensed engineer or geologist to conduct any testing of the Premises that Landlord feels is necessary or desirable. If any new contamination (not disclosed to or discovered by Landlord prior to the commencement of the lease term in the course of Landlord's phase 1 and phase 2 environmental due diligence of the Property prior to Landlord's purchase of same) is detected that exceeds State or federal standards with respect to hazardous substances or petroleum product, Tenant will remediate at Tenant's expense, promptly following demand by Landlord to Tenant.**

6.1.3 Occupancy and Use - Continuously from the Commencement Date, to use and occupy the Premises only for the Permitted Uses; not to injure or deface the Premises, including the building, or the land; and not to permit in the Premises any use thereof which is improper, offensive, contrary to law or ordinances, or liable to create a nuisance or to invalidate or increase the premiums for any insurance on the building or its contents or liable to render necessary any alteration or addition to the building; not to dump, flush, or in any way introduce any hazardous substances or any other toxic substances into the septic, sewage or other waste disposal system serving the Premises, not to generate, store or dispose of hazardous substances in or on the Premises or dispose of hazardous substances from the Premises to any other location without the prior written consent of Landlord and then only in compliance with the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §6901 et seq., and all other applicable laws, ordinances and regulations; to notify Landlord of any incident which would require the filing of a notice under applicable federal, state, or local law; not to store or dispose of hazardous substances on the Premises without first submitting to Landlord a list of all such hazardous substances and all permits required

therefor and thereafter providing to Landlord on an annual basis Tenant's certification that all such permits have been renewed with copies of such renewed permits; and to comply with the orders and regulations of all governmental authorities with respect to zoning, building, fire, health and other codes, regulations, ordinances or laws applicable to the Premises. "Hazardous substances" as used in this paragraph shall mean "hazardous substances" as defined in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601 and regulations adopted pursuant to said Act. Hazardous Materials used or stored on the Premises by Tenant as of the date of this Lease are listed on Exhibit B attached hereto.

6.1.4 Assignment and Subletting - Not to assign this Lease, or, except for the permitted subtenancy of the Permitted Subtenant currently in place, to make any sublease, or to permit occupancy of the Premises or any part thereof by anyone other than Tenant or the Permitted Subtenant, voluntarily or by operation of law (it being understood that in no event shall Landlord consent to any such assignment, sublease or occupancy).

If, at any time during the Term of this Lease, Tenant is a corporation and there shall occur any change in the identity of any of the persons then having power to participate in the election or appointment of the directors, or other persons exercising like functions and managing the affairs of Tenant, Tenant shall so notify Landlord and Landlord may terminate this Lease by notice to Tenant given within 45 days after its receipt of Tenant's notice of such change.

6.1.5 Indemnity - To defend, with counsel approved by Landlord, all actions against Landlord, any partner, trustee, stockholder, officer, director, employee or beneficiary of Landlord, holders of mortgages secured by the Premises and any other party having an interest in the Premises ("Indemnified Parties") with respect to, and to pay, protect, indemnify and save harmless, to the extent permitted by law, all Indemnified Parties from and against, any and all liabilities, losses damages, costs, expenses (including reasonable attorneys' fees and expenses), causes of action, suits, claims, demands or judgments of any nature (a) to which any Indemnified Party is subject because of its estate or interest in the Premises, or (b) arising from (i) injury to or death of any person, or damage to or loss of property, on the Premises or on adjoining sidewalks, streets or ways, or connected with the use, condition or occupancy of any thereof unless caused solely by the negligence of Landlord or its servants or agents, (ii) arising from a violation of this Lease, or (iii) as a result of any act, fault, omission, or other misconduct of Tenant or its agents, contractors, licensees, sublessees or invitees, or (iv) as a result of any pollution or hazardous materials escape or deposit, including losses incurred as a result of the escape of pollutants or hazardous materials from the Premises onto the property of others. Such indemnification shall survive the term of this Lease.

6.1.6 Tenant's Liability Insurance - To maintain public liability insurance on the Premises indemnifying Landlord and Tenant against all claims and demands for (i)

injury to or death of any person or damage to or loss of property, on the Premises or adjoining walks, streets or ways, or connected with the use, condition or occupancy of any thereof unless caused by the negligence of Landlord or its servants or agents, (ii) violation of this Lease, or (iii) any act, fault or omission, or other misconduct of Tenant or its agents, contractors, licensees, sublessees or invitees, in amounts which shall, at the beginning of the Term, be at least equal to the limits set forth in Section 1.1, and from time to time during the Term, shall be for such higher limits, if any, as are customarily carried in the area in which the Premises are located on property similar to the Premises and used for similar purposes, and shall be written on the "Occurrence Basis," and to furnish Landlord with certificates thereof naming Landlord as an "additional insured".

6.1.7 Tenant's Worker's Compensation Insurance - To keep all of Tenant's, or, as applicable, Permitted Subtenant's employees working in the Premises covered by worker's compensation insurance in statutory amounts and to furnish Landlord with certificates thereof.

6.1.8 Landlord's Right of Entry - To permit Landlord and Landlord's agents entry to examine the Premises at reasonable times.

6.1.9 Court Costs - In the event of any litigation, including appellate proceedings, arising out of any alleged breach of either party under this Lease, the prevailing party shall be entitled to recover reasonable attorney's fees actually incurred, as well as court costs, from the losing party.

6.1.10 Tenant's Property - All the furnishings, fixtures, equipment, effects and property of every kind, nature and description of Tenant and of all persons claiming by, through or under Tenant which, during the continuance of this Lease or any occupancy of the Premises by Tenant or anyone claiming under Tenant, may be on the Premises shall be at the sole risk and hazard of Tenant, and if the whole or any part thereof shall be destroyed or damaged by fire, water or otherwise, or by the leakage or bursting of water pipes, steam pipes, or other pipes, by theft, or from any other cause, no part of said loss or damage is to be charged to or to be borne by Landlord unless such damage or loss is caused by the gross negligence of Landlord.

6.1.11 Labor or Materialmen's Liens - To pay promptly when due the entire cost of any work done on the Premises by Tenant, its agents, employees, or independent contractors; not to cause or permit any liens for labor or materials performed or furnished in connection therewith to attach to the Premises; and immediately to discharge any such liens which may so attach.

6.1.12 Changes or Additions - Not to make any changes or additions to the Premises during the Term without the advance prior written consent of Landlord, which may be withheld by Landlord in its sole discretion.

6.1.13 Holdover - To pay to Landlord 1.5 times the then fair market rent as conclusively determined by Landlord and additional rent then applicable for the first two months of any holdover and then to pay 2 times the fair market rent as conclusively determined by Landlord and additional rent for each month thereafter that Tenant shall retain possession of the Premises or any part thereof after the termination of this Lease, whether by lapse of time or otherwise; the provisions of this subsection shall not operate as a waiver by Landlord of the right of re-entry provided in this Lease.

## **ARTICLE VII**

### **CASUALTY AND TAKING**

#### **7.1 CASUALTY AND TAKING**

In case during the Term all or any substantial part of the Premises, building, or land or any one or more of them, are damaged materially by fire or any other cause or by action of public or other authority in consequence thereof or are taken by eminent domain or Landlord receives compensable damage by reason of anything lawfully done in pursuance of public or other authority, this Lease shall terminate by notice to Tenant within 30 days after the occurrence of the event giving rise to the termination, which notice shall specify the effective date of termination which shall be not less than 30 nor more than 60 days after the date of notice of such termination. All rent shall cease as of the effective date of termination as determined by such notice from Landlord to Tenant.

#### **7.2 RESERVATION OF AWARD**

Landlord reserves to itself any and all rights to receive awards made for damages to the Premises, building or land and the leasehold hereby created, or any one or more of them, accruing by reason of exercise of eminent domain or by reason of anything lawfully done in pursuance of public or other authority. Tenant hereby releases and assigns to Landlord all Tenant's rights to such awards, and covenants to deliver such further assignments and assurances thereof as Landlord may from time to time request, and hereby irrevocably designates and appoints Landlord its attorney-in-fact to execute and deliver in Tenant's name and behalf all such further assignments thereof. It is agreed and understood, however, that Landlord does not reserve to itself, and Tenant does not assign to Landlord, any damages payable for (i) movable trade fixtures installed by Tenant or anybody claiming under Tenant, at its own expense or (ii) relocation expenses recoverable by Tenant from such authority in a separate action.

## ARTICLE IX

### DEFAULT

#### 9.1 EVENTS OF DEFAULT.

If any default by Tenant continues

(a) after ten (10) days' written notice, in case of the non-payment of any installment of Annual Rent, additional rent, or any other monetary obligation to Landlord or

(b) in the case of any other failure by Tenant to comply with the terms and provisions of this Lease, after thirty (30) days' written notice (or if such default is of such a nature that it cannot reasonably be cured in 30 days and Tenant diligently endeavors to cure such default, then after sixty (60) days' written notice); or

(c) if Tenant becomes insolvent, fails to pay its debts as they fall due, files a petition under any chapter of the U.S. Bankruptcy Code, 11 U.S.C. 101 et seq., as it may be amended (or any similar petition under any insolvency law of any jurisdiction), or if such petition is filed against Tenant; or

(d) if Tenant proposes any dissolution, liquidation, composition, financial reorganization or recapitalization with creditors, makes an assignment or trust mortgage for benefit of creditors, or if a receiver, trustee, custodian or similar agent is appointed or takes possession with respect to any property of Tenant; or

(e) if the interest of Tenant hereunder (which is not a leasehold, but is solely a usufruct, and thus is not subject to levy and sale) is taken on execution or other process of law in any action against Tenant; then, and in any such case, Landlord and the agents and servants of Landlord may, in addition to and not in derogation of any remedies for any preceding breach of covenant, immediately or at any time thereafter while such default continues and without further notice, at Landlord's election, do any one or more of the following:

(1) give Tenant written notice stating that the Lease is terminated, effective upon the giving of such notice or upon a date stated in such notice, as Landlord may elect, in which event the Lease shall be irrevocably extinguished and terminated as stated in such notice without any further action, or

(2) with or without process of law, in a lawful manner enter and repossess the Premises, and expel Tenant and those claiming through or under Tenant, and remove its and their effects, without being guilty of trespass, in which event the Lease shall be irrevocably extinguished and terminated at the time of such entry, and/or

(3) pursue any other rights or remedies permitted by law. Any such termination of the Lease shall be without prejudice to any remedies which might otherwise be used for arrears of rent or prior breach of covenant, and in the event of such termination Tenant shall remain liable under this Lease as hereinafter provided. Tenant hereby waives all statutory rights (including, without limitation, rights of redemption, if any) to the extent such rights may be lawfully waived, and Landlord,



without notice to Tenant, may store Tenant's effects and those of any person claiming through or under Tenant at the expense and risk of Tenant and, if Landlord so elects, may sell such effects at public auction or private sale and apply the net proceeds to the payment of all sums due to Landlord from Tenant, if any, and pay over the balance, if any, to Tenant.

## **9.2 TENANT'S OBLIGATIONS AFTER TERMINATION.**

In the event that this Lease is terminated under any of the provisions contained in Section 9.1 or shall be otherwise terminated for breach of any obligation of Tenant, Tenant covenants to pay punctually to Landlord all the sums and perform all the obligations which Tenant covenants in this Lease to pay and to perform in the same manner and to the same extent and at the same time as if this Lease had not been terminated. In calculating the amounts to be paid by Tenant under this covenant, Tenant shall be credited with any rents obtained by Landlord by reletting the Premises, after deducting all Landlord's expenses in connection with such reletting, including, without implied limitation, all repossession costs, brokerage commissions, fees for legal services and expenses of preparing the Premises for such reletting, it being agreed by Tenant that Landlord may relet the Premises or any part or parts thereof for a term or terms which may at Landlord's option be equal to or less than or exceed the period which would otherwise have constituted the balance of the Term and may grant such concessions and free rent as Landlord in its sole judgment considers advisable or necessary to relet the same, and no action of Landlord in accordance with the foregoing or failure to relet or to collect rent under reletting shall operate or be construed to release or reduce Tenant's liability as aforesaid.

Nothing contained in this Lease shall, however, limit or prejudice the right of Landlord to prove and obtain in proceedings for bankruptcy or insolvency by reason of the termination of this Lease, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, the damages are to be proved, whether or not the amount be greater, equal to, or less than the amount of the loss or damages referred to above.

## **ARTICLE X**

### **MISCELLANEOUS**

#### **10.1 NOTICES**

All notices required or permitted hereunder shall be in writing and addressed, if to the Tenant, at Tenant's Address or such other address as Tenant shall have last designated by notice in writing to Landlord and, if to Landlord, at Landlord's Address or such other address as Landlord shall have last designated by notice in writing to

Tenant. Any notice shall have been deemed duly given if mailed to such address, postage prepaid, registered or certified mail, return receipt requested, when deposited with the U.S. Postal Service, or if delivered to such address by hand, when so delivered.

## **10.2 BIND AND INURE**

The obligations of this Lease shall run with the land, and this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that the Landlord named herein and each successive owner of the Premises shall be liable only for the obligations accruing during the period of its ownership. The obligations of Landlord shall be binding upon the assets of Landlord which comprise the Premises but not upon other assets of Landlord. No individual partner, trustee, stockholder, officer, director, employee or beneficiary of Landlord shall be personally liable under this Lease and Tenant shall look solely to Landlord's interest in the Premises in pursuit of its remedies upon an event of default hereunder, and the general assets of the individual partners, trustees, stockholders, officers, employees or beneficiaries of Landlord shall not be subject to levy, execution or other enforcement procedure for the satisfaction of the remedies of Tenant.

## **10.3 NO SURRENDER**

The delivery of keys to any employee of Landlord or to Landlord's agent or any employee thereof shall not operate as a termination of this Lease or a surrender of the Premises.

## **10.4 NO WAIVER, ETC.**

The failure of Landlord or of Tenant to seek redress for violation of, or to insist upon the strict performance of any covenant or condition of this Lease shall not be deemed a waiver of such violation nor prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. The receipt by Landlord of Annual Rent or additional rent with knowledge of the breach of any covenant of this Lease shall not be deemed a waiver of such breach by Landlord, unless such waiver be in writing and signed by Landlord. No consent or waiver, express or implied, by Landlord or Tenant to or of any breach of any agreement or duty shall be construed as a waiver or consent to or of any other breach of the same or any other agreement or duty.

## **10.5 NO ACCORD AND SATISFACTION**

No acceptance by Landlord of a lesser sum than the Annual Rent and

additional rent then due shall be deemed to be other than on account of the earliest installment of such rent due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed as accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or pursue any other remedy in this Lease provided.

## **10.6 CUMULATIVE REMEDIES**

The specific remedies to which Landlord may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which it may be lawfully entitled in case of any breach or threatened breach by Tenant of any provisions of this Lease. In addition to the other remedies provided in this Lease, Landlord shall be entitled to the restraint by injunction of the violation or attempted or threatened violation of any of the covenants, conditions or provisions of this Lease or to a decree compelling specific performance of any such covenants, conditions or provisions.

## **10.7 ESTOPPEL CERTIFICATE**

Tenant agrees, from time to time, upon not less than 15 days' prior written request by Landlord, to execute, acknowledge and deliver to Landlord a statement in writing certifying that this Lease is unmodified and in full force and effect; that Tenant has no defenses, offsets or counterclaims against its obligations to pay the Annual Rent and additional rent and to perform its other covenants under this Lease; that there are no uncured defaults of Landlord or Tenant under this Lease (or, if there have been modifications, defenses, defaults, etc., that this Lease is in full force and effect as modified and stating the modifications, and, if there are any defenses, offsets, counterclaims, or defaults, setting them forth in reasonable detail); and the dates to which the Annual Rent, additional rent and other charges have been paid. Any such statement delivered pursuant to this Section 10.9 shall be in a form reasonably acceptable to and may be relied upon by any prospective purchaser or mortgagee of property which includes the Premises or any prospective assignee of any such mortgagee.

## **10.8 WAIVER OF SUBROGATION**

Any insurance carried by either party with respect to the Premises and property therein or occurrences thereon shall include a clause or endorsement denying to the insurer rights of subrogation against the other party to the extent rights have been waived by the insured prior to occurrences of injury or loss. Each party, notwithstanding any provisions of this Lease to the contrary, hereby waives any rights of recovery against the other for injury or loss due to hazards covered by insurance containing such clause or endorsement to the extent of the indemnification received thereunder.

## **10.9 ACTS OF GOD**

In any case where either party hereto is required to do any act, delays caused by or resulting from acts of God, war, civil commotion, fire, flood or other casualty, labor difficulties, shortages of labor, materials or equipment, government regulations, unusually severe weather, or other causes beyond such party's reasonable control shall not be counted in determining the time during which work shall be completed, whether such time be designated by a fixed date, a fixed time or a "reasonable time", and such time shall be deemed to be extended by the period of such delay.

## **10.10 BROKERAGE**

Tenant represents and warrants that it has dealt with no broker in connection with this transaction and agrees to defend, with counsel approved by Landlord, indemnify and save Landlord harmless from and against any and all cost, expense or liability for any compensation, commissions or charges claimed by a broker or agent with respect to Tenant's dealings in connection with this Lease.

## **10.11 SUBMISSION NOT AN OFFER**

The submission of a draft of this Lease or a summary of some or all of its provisions does not constitute an offer to lease or demise the Premises, it being understood and agreed that neither Landlord nor Tenant shall be legally bound with respect to the leasing of the Premises unless and until this Lease has been executed by both Landlord and Tenant and a fully executed copy has been delivered to each of them.

## **10.12 APPLICABLE LAW AND CONSTRUCTION**

This Lease shall be governed by and construed in accordance with the laws of the state in which the Premises are located. If any term, covenant, condition or provision of this Lease or the application thereof to any person or circumstances shall be declared invalid or unenforceable by the final ruling of a court of competent jurisdiction having final review, the remaining terms, covenants, conditions and provisions of this Lease and their application to persons or circumstances shall not be affected thereby and shall continue to be enforced and recognized as valid agreements of the parties, and in the place of such invalid or unenforceable provision, there shall be substituted a like, but valid and enforceable provision which comports to the findings of the aforesaid court and most nearly accomplishes the original intention of the parties.

There are no oral or written agreements between Landlord and Tenant affecting this Lease. This Lease may be amended, and the provisions hereof may be waived or modified, only by instruments in writing executed by Landlord and Tenant.

The titles of the several Articles and Sections contained herein are for convenience only and shall not be considered in construing this Lease.

Unless repugnant to the context, the words "Landlord" and "Tenant" appearing in this Lease shall be construed to mean those named above and their respective heirs, executors, administrators, successors and assigns, and those claiming through or under them respectively. If there be more than one tenant, the obligations imposed by this Lease upon Tenant shall be joint and several.

## **ARTICLE XI**

### **SECURITY DEPOSIT**

Landlord acknowledges receipt from Tenant of the Security Deposit to be held by Landlord, as security, without interest, for and during the Term, which deposit shall be returned to Tenant at the termination of this Lease, provided there exists no breach of any undertaking of Tenant. If all or any part of the Security Deposit is applied to an obligation of Tenant hereunder, Tenant shall immediately upon request by Landlord restore the Security Deposit to its original amount. Tenant shall not have the right to call upon Landlord to apply all or any part of the Security Deposit to cure any default or fulfill any obligation of Tenant, but such use shall be solely in the discretion of Landlord.

Upon any conveyance by Landlord of its interest under this Lease, the Security Deposit may be delivered by Landlord to Landlord's grantee or transferee. Upon any such delivery, Tenant hereby releases Landlord herein named of any and all liability with respect to the Security Deposit, its application and return, and Tenant agrees to look solely to such grantee or transferee. It is further understood that this provision shall also apply to subsequent grantees and transferees. **TENANT SPECIFICALLY AGREES THAT THE SECURITY DEPOSIT MAY BE USED BY LANDLORD FOR ANY ENVIRONMENTAL REMEDIATION THAT MIGHT BE NEEDED TO CLEAN UP THE PREMISES AT THE EXPIRATION OF THE TERM THAT RESULTED FROM TENANT'S OR PERMITTED SUBTENANT'S USE OF THE PREMISES AFTER THE COMMENCEMENT OF THIS LEASE.**

IN WITNESS WHEREOF, this Lease has been duly executed, by duly authorized signatories for each of the parties, as a sealed instrument in two or more counterparts as of the day and year first above written.

**LANDLORD:**

**THE TRUST FOR PUBLIC LAND,**  
a California public benefit corporation

By: [Signature]  
Name: James Langford  
Its: State Director  
Date: 5/5/06

[CORPORATE SEAL]

**TENANT:**

**BPS Cores, Inc**  
a Georgia corporation

By: [Signature]  
Name: Debra F. Stanley  
Its: CFO  
Date: 5-5-06

[CORPORATE SEAL]

EXHIBIT A

LEGAL DESCRIPTION OF THE PREMISES

## **Exhibit A**

### **Legal Description**

#### **504-510 Englewood**

All that tract or parcel of land lying and being in Land Lot 42 of the 14<sup>th</sup> District, originally Henry, now Fulton County, Georgia, being more particularly described as follows:

BEGINNING at a point on the north side of Englewood Avenue, S.E., Atlanta, Georgia, 796.7 feet west as measured along the north side of Englewood Avenue from its intersection with the west side of Boulevard, S.E. (which point of beginning being also 100 feet west of the northwest corner of the intersection of Englewood Avenue and Park Street (unopened); running thence west along the north side of Englewood Avenue 300 feet to a point; thence north 300 feet to a point; thence east, parallel with the north side of Englewood Avenue 300 feet to a point; thence south 300 feet to the north side of Englewood Avenue and the Point of Beginning; being improved property known as No. 504-510 Englewood Avenue, S.E., according to the present system of numbering houses and buildings in the City of Atlanta, Georgia.

#### **520 Englewood**

All that tract or parcel of land lying and being in Land Lot 42 of the 14<sup>th</sup> District, originally Henry, now Fulton County, Georgia, being more particularly described as follows:

BEGINNING at a point on the northerly side of right of way of Englewood Avenue, said point being 742.38 feet westerly from a point formed by the intersection of the northerly side of right of way of Englewood Avenue with the westerly side of the right of way of South Boulevard, as measured along the northerly side of right of way of Englewood Avenue; running thence northerly 400 feet to a point; running thence westerly 76.28 feet to a point; running thence southerly 400 feet to a point; running thence easterly along the northerly side of right of way of Englewood Avenue a distance of 70 feet to the point of beginning. All as will more fully appear on plat of survey for Harold T. Hudgins, dated October 21, 1967, by Richard T. Conner, Registered Land Surveyor, and said plat is by reference thereto made a part hereof as though fully set forth on this page to more clearly show the courses, distances, metes and bounds of the lands herein conveyed.



06-0-0706

(Do Not Write Above This Line)

AN ORDINANCE BY FINANCE/EXECUTIVE COMMITTEE

AN ORDINANCE AUTHORIZING THE MAYOR OR HER DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA, TO NEGOTIATE FOR AND PURCHASE APPROXIMATELY 4.808 ACRES ALONG ENGLEWOOD AVENUE ("THE PROPERTY") FROM THE TRUST FOR PUBLIC LAND IN AN AMOUNT NOT TO EXCEED \$2,500,000 INCLUDING CITY'S PURCHASE PRICE, DUE DILIGENCE AND PURCHASE SERVICES TO BE PAID FROM FUND, ACCOUNT AND CENTER NUMBERS: 1C53 (2005A PARK IMPROVEMENT BOND FUND, 571001 (LAND N12D11B69999 (CITY WIDE GROUND AND SITE IMPROVEMENTS); AND FOR OTHER PURPOSES.

*Substitute Draft for week 4/17/06*

*Adopted*

ADOPTED BY

APR 17 2006

COUNCIL

SUBSTITUTE

- ☐ CONSENT REFER
- ☐ REGULAR REPORT REFER
- ☐ ADVERTISE & REFER
- ☐ 1st ADOPT 2nd READ & REFER
- ☐ PERSONAL PAPER REFER

Date Referred 3/20/06

Referred To: Fin/Exec

Date Referred

Referred To:

Date Referred

Referred To:

Committee: Finance/Executive

Date: 3/20/06

Chair: [Signature]

Referred to: FINANCE/EXECUTIVE

F.N. [Signature]

3-20-2006

Members

For, Adv, Hold (see rev. side)

Others

Refer To

Committee

Date

Chair

Members

For, Adv, Hold (see rev. side)

Others

Refer To

Committee

Date

Chair

Members

For, Adv, Hold (see rev. side)

Others

Refer To

F.N. [Signature]

3/27/2006

Members

For, Adv, Hold (see rev. side)

Others

Members

For, Adv, Hold (see rev. side)

Others

Members

For, Adv, Hold (see rev. side)

Others

Refer To

CERTIFIED

2nd ☐ 1st & 2nd ☐ 3rd ☐

Consent ☐ V. Vote ☐ R.C. Vote ☐

APR 17 2006

Removed from register  
by [Signature]

APR 17 2006

RECEIVED  
MUNICIPAL CLERK

MAYOR'S ACTION

[Signature]

RCS# 188  
4/17/06  
2:30 PM

## Atlanta City Council

## REGULAR SESSION

06-O-0706

NEGOTIATE PURCHASE ACRES ENGLEWOOD AVE  
\$2,500,000 PURCHASE PRICE/SERV DUE DIL  
ADOPT ON SUB

YEAS: 13  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 2  
EXCUSED: 0  
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Hall	Y Fauver	B Martin	Y Norwood
NV Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	Y Sheperd	NV Borders

06-O-0706

RCS# 187  
4/17/06  
2:28 PM

Atlanta City Council

REGULAR SESSION

06-O-0706

NEGOTIATE PURCHASE ACRES ENGLEWOOD AVE  
\$2,500,000 PURCHASE PRICE/SERV DUE DIL  
SUB FWD

YEAS: 11  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 4  
EXCUSED: 0  
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Hall	NV Fauver	B Martin	Y Norwood
NV Young	Y Shook	NV Maddox	Y Willis
Y Winslow	Y Muller	Y Sheperd	NV Borders

06-O-0706



**CITY COUNCIL  
ATLANTA, GEORGIA**

06-O-0706

**AN ORDINANCE BY  
FINANCE/EXECUTIVE COMMITTEE**

**AS SUBSTITUTED  
BY FULL COUNCIL**

**AN ORDINANCE AUTHORIZING THE MAYOR OR HER DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA, TO NEGOTIATE FOR AND PURCHASE APPROXIMATELY 4.808 ACRES AT 500, 504-510 AND 520 ENGLEWOOD AVENUE SE ("THE PROPERTY") FROM THE TRUST FOR PUBLIC LAND IN AN AMOUNT NOT TO EXCEED \$2,500,000 INCLUDING CITY'S PURCHASE PRICE, DUE DILIGENCE AND PURCHASE SERVICES TO BE PAID FROM FUND, ACCOUNT AND CENTER NUMBERS: 1C53 (2005A PARK IMPROVEMENT BOND FUND, 571001(LAND) N12D11B69999 (CITY WIDE GROUND AND SITE IMPROVEMENTS); AND FOR OTHER PURPOSES.**


**WHEREAS, on December 16, 2005, the Trust for Public Land (TPL) acquired approximately 4.808 acres at 500, 504-510 and 520 Englewood Avenue SE, Parcel Identification Numbers 14-0042-0009-026, 14-0042-0008-003, 14-0042-0008-020 ("the Property") (See Exhibit "A" Tract Two) in the Boulevard Crossing area which is located along the proposed BeltLine; and**

**WHEREAS, TPL has agreed to sell the Property to the City of Atlanta ("City") at for an amount not to exceed the Fair Market Value ("FMV"), subject to the appropriate City approval processes; and**

**WHEREAS, the portion of the Property located at 504-510 Englewood Avenue SE (Parcel Identification Number 14-0042-0008-003) and 520 Englewood Avenue SE (Parcel Identification Number 14-0042-0008-020) is encumbered by a Lease Agreement ("the Lease Agreement") with BPS Cores, Inc. ("the Tenant," ) which expires December 31, 2006; and**

**WHEREAS, TPL has agreed to assign the Lease Agreement to the City of Atlanta; and**

**WHEREAS, TPL is a non-profit, 501(c)(3) organization, whose business is to negotiate property donations on behalf of public agencies or to purchase properties, providing tax incentives to property owners, and hold such properties in trust until the public agency has the funds to purchase the properties; and**



**WHEREAS**, purchasing the Property is consistent with the City's goal of greenspace acquisition, preservation and park expansion particularly in areas that are located along the proposed BeltLine.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA**, as follows:

**SECTION 1:** The Chief Procurement Officer or his designee, on behalf of the City, is hereby authorized to negotiate with the Trust for Public Land to purchase real property known as the Property, at a purchase price no greater than Fair Market Value.

**SECTION 2:** The Chief Procurement Officer or his designee is hereby authorized to obtain or review surveys, title reports, environmental assessments, and appraisals to establish the Fair Market Value of the Property. In addition, the Chief Procurement Officer or his designee is authorized to obtain and pay for those items and services necessary to purchase the Property, including but not limited to title insurance, real estate service fees and other closing costs ("The City's Due Diligence and Purchase Services").

**SECTION 3:** The City Purchase Price plus the City's Due Diligence and Purchase Services, in an amount not to exceed \$2,500,000 shall be paid from 2005A Park Improvement Bond Fund 1C53 (Account) 571001 (Land) N12D11B69999 (City Wide Ground and Site Improvements).

**SECTION 4:** The Chief Procurement Officer or his designee is hereby authorized to enter into a lease with the tenant at 504-510 Englewood Avenue SE (Parcel Identification Number 14-0042-0008-003) and 520 Englewood Avenue SE (Parcel Identification Number 14-0042-0008-020).

**SECTION 5:** Revenue received from the Lease Agreement will be deposited to 2005A Park Improvement Bond Fund Account and Center Numbers: 1C53 (2005A Park Improvement Bond Fund) 462201 (Building Rentals) N12D11B69999 (Land Acquisition).

**SECTION 6:** Upon acquisition, the Department of Parks, Recreation, and Cultural Affairs, Bureau of Parks, is hereby charged with all responsibility for the Property and that the deed shall provide that such property shall remain permanently preserved as parks and greenspace with recreation facilities for the benefit of the public.

**SECTION 7:** The City's Greenspace Acquisition Consultant, ("the Consultant") is authorized to settle the acquisition of the Property at an amount authorized by the Chief Procurement Officer. The Consultant may also arrange and negotiate for the Due Diligence and Purchase Services.



**SECTION 8:** The requirements of the City Code Section 2-1541 (d), of the Procurement and Real Estate Code, are waived to allow the purchase of the Property on behalf of the City without further authorization by the City Council.

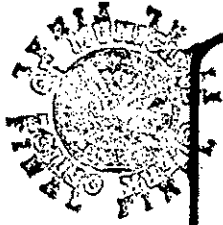
**SECTION 9:** The Mayor, on behalf of the City, is authorized to execute any and all deeds, instruments or other documents that the Law Department deems to be necessary or advisable in order to carry into effect the intent of this ordinance.

**SECTION 10:** The City Attorney is hereby directed to prepare for execution by the Mayor, any and all deeds, instruments, or other documents that the City Attorney deems necessary or advisable to carry into effect the intent of this ordinance, said documents to be approved as to form by the City Attorney.

**SECTION 11:** Said deeds, instruments, or other documents shall not become binding upon the City, and the City shall incur neither obligation nor liability thereunder, until the same has been signed by the Mayor.

**SECTION 12:** All ordinances and parts of ordinances in conflict herewith are hereby repealed for purposes of the Ordinance only, and only to the extent of the conflict.





THE CHIEF OF STAFF OF THE CITY OF ATLANTA, GEORGIA, HAS THE HONOR TO ADVISE YOU THAT THE CITY OF ATLANTA, GEORGIA, HAS ACHIEVED THE FOLLOWING ACCOMPLISHMENTS:

1. The City of Atlanta, Georgia, has been named the "Most Livable City" in the United States for the 10th year.

2. The City of Atlanta, Georgia, has been named the "Most Beautiful City" in the United States for the 10th year.

3. The City of Atlanta, Georgia, has been named the "Most Innovative City" in the United States for the 10th year.

4. The City of Atlanta, Georgia, has been named the "Most Creative City" in the United States for the 10th year.

5. The City of Atlanta, Georgia, has been named the "Most Entrepreneurial City" in the United States for the 10th year.

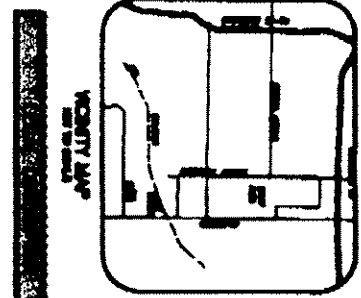
6. The City of Atlanta, Georgia, has been named the "Most Financially Sound City" in the United States for the 10th year.

7. The City of Atlanta, Georgia, has been named the "Most Fiscally Responsible City" in the United States for the 10th year.

8. The City of Atlanta, Georgia, has been named the "Most Transparent City" in the United States for the 10th year.

9. The City of Atlanta, Georgia, has been named the "Most Open City" in the United States for the 10th year.

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 <p><b>THE TRUST FOR PUBLIC LANDS</b> CITY OF ATLANTA CHICAGO TITLE INSURANCE COMPANY</p> <p>POST OFFICE BOX 776 DUBLIN, OHIO 43017</p> <p>Map Department / 200 Department ©2006 THE TRUST FOR PUBLIC LANDS, INC.</p>	<p>LAND LOT 42 - 100,000 SQ. FT. CITY OF ATLANTA FULTON COUNTY, GEORGIA</p> <p>Map T-1-12 Map T-1-13 Map T-1-14</p> <p>Map of Land of 100,000 SQ. FT. Map T-1-12 Map T-1-13 Map T-1-14</p>	<p>REVISIONS</p> <table border="1"> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> <tr> <td>1</td> <td>04/19/2006</td> <td>Initial Map</td> </tr> </table> <p>Map T-1-12 Map T-1-13 Map T-1-14</p>	NO.	DATE	DESCRIPTION	1	04/19/2006	Initial Map
NO.	DATE	DESCRIPTION						
1	04/19/2006	Initial Map						



**ITEMS  
REMOVED  
FROM  
CONSENT AGENDA**

I.D.#: OG-0-0706

PAGE: 8

BY: Council member Shook

COMMITTEE: Fin/Ex

DATE: 4/17, 2006

**CITY COUNCIL  
ATLANTA, GEORGIA****AN ORDINANCE BY  
FINANCE/EXECUTIVE COMMITTEE****06-0-0706**

**AN ORDINANCE AUTHORIZING THE MAYOR OR HER DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA, TO NEGOTIATE FOR AND PURCHASE APPROXIMATELY 4.808 ACRES ALONG ENGLEWOOD AVENUE ("THE PROPERTY") FROM THE TRUST FOR PUBLIC LAND IN AN AMOUNT NOT TO EXCEED \$2,500,000 INCLUDING CITY'S PURCHASE PRICE, DUE DILIGENCE AND PURCHASE SERVICES TO BE PAID FROM FUND, ACCOUNT AND CENTER NUMBERS: 1C53 (2005A PARK IMPROVEMENT BOND FUND, 571001(LAND) N12D11B69999 (CITY WIDE GROUND AND SITE IMPROVEMENTS); AND FOR OTHER PURPOSES.**

**WHEREAS, on December 16, 2005, the Trust for Public Land (TPL) acquired approximately 4.808 acres at 500, 510 and 520 Englewood Avenue SE, Parcel Identification Numbers 14-0042-0009-026, 14-0042-0008-003, 14-0042-0008-020 ("the Property") (See Exhibit "A" Tract Two) in the Boulevard Crossing area which is located along the proposed BeltLine; and**

**WHEREAS, TPL has agreed to sell the Property to the City of Atlanta ("City") at for an amount not to exceed the Fair Market Value ("FMV"), subject to the appropriate City approval processes; and**

**WHEREAS, the portion of the Property located at 500 Englewood Avenue SE and 520 Englewood Avenue SE is encumbered by a Lease Agreement ("the Lease Agreement") with BPS Cores, Inc. ("the Tenant,") which expires December 31, 2006; and**

**WHEREAS, TPL has agreed to assign the Lease Agreement to the City of Atlanta; and**

**WHEREAS, TPL is a non-profit, 501(c)(3) organization, whose business is to negotiate property donations on behalf of public agencies or to purchase properties, providing tax incentives to property owners, and hold such properties in trust until the public agency has the funds to purchase the properties; and**

**WHEREAS, purchasing the Property is consistent with the City's goal of greenspace acquisition, preservation and park expansion particularly in areas that are located along the proposed BeltLine.**

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:**

**SECTION 1:** The Chief Procurement Officer or his designee, on behalf of the City, is hereby authorized to negotiate with the Trust for Public Land to purchase real property known as the Property, at a purchase price no greater than Fair Market Value.

**SECTION 2:** The Chief Procurement Officer or his designee is hereby authorized to obtain or review surveys, title reports, environmental assessments, and appraisals to establish the Fair Market Value of the Property. In addition, the Chief Procurement Officer or his designee is authorized to obtain and pay for those items and services necessary to purchase the Property, including but not limited to title insurance, real estate service fees and other closing costs ("The City's Due Diligence and Purchase Services").

**SECTION 3:** The City Purchase Price plus the City's Due Diligence and Purchase Services, in an amount not to exceed \$2,500,000 shall be paid from 2005A Park Improvement Bond Fund 1C53 (Account) 571001 (Land) N12D11B69999 (City Wide Ground and Site Improvements).

**SECTION 4:** The Chief Procurement Officer or his designee is hereby authorized to enter into a lease with the tenant at 500 Englewood Avenue SE and 520 Englewood Avenue SE.

**SECTION 5:** Revenue received from the Lease Agreement will be deposited to 2005A Park Improvement Bond Fund Account and Center Numbers: 1C53 (2005A Park Improvement Bond Fund) 462201 (Building Rentals) N12D11B69999 (Land Acquisition).

**SECTION 6:** Upon acquisition, the Department of Parks, Recreation, and Cultural Affairs, Bureau of Parks, is hereby charged with all responsibility for the Property and that the deed shall provide that such property shall remain permanently preserved as parks and greenspace with recreation facilities for the benefit of the public.

**SECTION 7:** The City's Greenspace Acquisition Consultant, ("the Consultant") is authorized to settle the acquisition of the Property at an amount authorized by the Chief Procurement Officer. The Consultant may also arrange and negotiate for the Due Diligence and Purchase Services.

**SECTION 8:** The requirements of the City Code Section 2-1541 (d), of the Procurement and Real Estate Code, are waived to allow the purchase of the Property on behalf of the City without further authorization by the City Council.

**SECTION 9:** The Mayor, on behalf of the City, is authorized to execute any and all deeds, instruments or other documents that the Law Department deems to be necessary or advisable in order to carry into effect the intent of this ordinance.

**SECTION 10:** The City Attorney is hereby directed to prepare for execution by the Mayor, any and all deeds, instruments, or other documents that the City Attorney deems necessary or advisable to carry into effect the intent of this ordinance, said documents to be approved as to form by the City Attorney.

**SECTION 11:** Said deeds, instruments, or other documents shall not become binding upon the City, and the City shall incur neither obligation nor liability thereunder, until the same has been signed by the Mayor.

**SECTION 12:** All ordinances and parts of ordinances in conflict herewith are hereby repealed for purposes of the Ordinance only, and only to the extent of the conflict.

RCS# 123  
3/20/06  
1:26 PM

Atlanta City Council

REGULAR SESSION

CONSENT II

CONSENT II PG(S) 21-23

REFER

YEAS: 12  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 2  
EXCUSED: 0  
ABSENT 2

Y Smith	B Archibong	Y Moore	Y Mitchell
Y Hall	NV Fauver	Y Martin	Y Norwood
Y Young	Y Shook	Y Maddox	B Willis
Y Winslow	Y Muller	Y Sheperd	NV Borders

CONSENT II

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: GREG PRIDGEON

Legislative Counsel (Signature): Terry Grandison



Contact

Number: 6946

Originating Department: Parks, Recreation, and Cultural Affairs

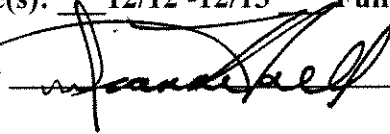
Committee(s) of Purview: Finance and Executive

Council

Deadline: 11/27/06

Committee Meeting Date(s): 12/12 -12/13 Full Council Date: 1/02/07

Commissioner Signature



**CAPTION**

AN ORDINANCE AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF ATLANTA ("CITY"), TO AUTHORIZE THE CURRENT LEASE UNTIL MARCH 31, 2007 AND ENTER INTO A LEASE EXTENSION AGREEMENT WITH BPS CORES, INC. ("TENANT"), LOCATED AT 504-510 ENGLEWOOD AVENUE SOUTH EAST AND 520 ENGLEWOOD AVENUE SOUTH EAST ATLANTA, GEORGIA, BEGINNING MARCH 31, 2007 THROUGH JUNE 30, 2007, IN AN AMOUNT NOT TO EXCEED NINETY THOUSAND DOLLARS (\$90,000.00) ANNUALLY, PRORATED AT SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500.00) MONTHLY. ALL REVENUE SHALL BE DEPOSITED INTO FUND, ACCOUNT, AND CENTER NUMBER: 1C53 (2005A PARK IMPROVEMENT BOND FUND) 462201 (BUILDING RENTALS) N12D11B69999 (LAND ACQUISITION); AND FOR OTHER PURPOSES.

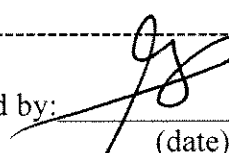
FINANCIAL IMPACT (if any): No Matching Grant Funds Required

Mayor's Staff Only

Received by Mayor's Office:

12.6.06  
(date)

Reviewed by:

  
(date)

Submitted to Council:

12/21/06  
(date)